

# SUBSISTENCE: FACTS AND FICTION

For years, those who oppose a subsistence priority or who oppose the state regaining subsistence management have been spreading a lot of fiction. Here are some examples:

***Fiction:*** *A rural resident priority, operating at all times, will mean that urban residents will be discriminated against and will no longer be able to take the fish and game that they are accustomed to.*

***Fact:*** Since statehood, urban residents have generally satisfied their need for fish and game by participating in sport, commercial, and personal use harvests. In fact, during the last decade when urban residents have been eligible to participate in state subsistence hunts and fisheries, only a handful have chosen to do so.

Although, in a practical sense, the priority for subsistence use exists at all times, it does not begin to affect persons participating in other uses until the stocks and populations are so depleted that there is not enough for subsistence uses. Then, the other uses are restricted or eliminated.

It is important to keep in mind that subsistence users harvest less than 4% by weight of the fish and game that is taken in Alaska. Other than when a fish stock or game population crashes or experiences an abnormal jump in harvesting pressure, urban residents hunt and fish unaffected by the subsistence priority. A statewide survey on subsistence suggests that if there's not enough for everyone, most urban residents feel that rural residents, who have higher dependence on wild resources and less opportunity for affordable, store-bought food, should be given a priority. **When the state had a rural resident priority during the late 1980s, it did not prevent urban hunters and fishers from harvesting adequate fish and game. The same would be true now.**

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***Fiction:*** *By not appealing Babbitt and Katie John, the Governor missed an opportunity to solve the subsistence dilemma.*

***Fact:*** **Solving the subsistence dilemma means returning subsistence management for all fish and game to the state.** Even if the state had appealed and won the Babbitt case or the Katie John case, or both, the state would not have regained management.

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***Fiction:***        ***The Governor's proposal provides a racial or Native priority for subsistence.***

***Fact:***            In an introductory section, the Governor's proposal recognizes the subsistence tradition of Alaska Native peoples. It does not deny that other Alaskans may have a tradition of subsistence use. The statement provides the context for the rest of the constitutional amendment and does not, in itself, provide for a priority. The actual priority is stated in the next section, **a priority for rural residents regardless of their racial background.**

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***Fiction:***        ***There would be no difference between federal management and state management under ANILCA.***

***Fact:***            **The main difference is which agency is authorized to adopt subsistence hunting and fishing regulations** that apply to most of Alaska's lands and much of its waters. When the state is unable to provide a rural resident priority, the Federal Subsistence Board manages those resources. Unlike the state fish and game boards, which must consider all uses when implementing a priority for subsistence, the federal board need only provide for subsistence. That board is more prone to being influenced by bureaucrats in Washington, D.C., and special interests in the Lower 48. The difference between the way the state and federal boards operate is increasingly apparent as federal regulations begin to differ from state regulations.

People who oppose the rural resident priority say they prefer state management, but at the same time, they block the only way that we can regain it. In other words, they would rather have federal management than afford a preference, when fish and wildlife decline, to Alaskans who are more dependent on those resources.

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***Fiction:***        ***A constitutional amendment providing for a rural resident priority can only be enacted by a constitutional convention, not by the legislature and voters.***

***Fact:***            Only significant changes to the constitution, in either the quality or quantity of rights being amended, have to be taken up by a constitutional convention. The Attorney General has published a formal opinion concluding that changing the constitution to allow for a rural resident priority for subsistence is not the type of far-reaching change that would require a convention. **Another way to answer the question is for the legislature to place a constitutional amendment on the ballot so a court can decide the issue.**

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***Fiction:*** *Alaskans should not be allowed to vote on subsistence. They will be swayed by special interests.*

***Fact:*** Alaskans have voted on an average of almost one constitutional amendment per year since statehood. At least twenty-six amendments have passed. The question here is not complicated . . . "when fish and game resources decline, should rural residents have a priority for harvesting those resources?" **Legislators who don't trust Alaskans to vote on this question are the ones beholden to special interests who either favor federal management or who are opposed to subsistence itself.**

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***Fiction:*** *A subsistence priority will mean that rural people can fish and hunt without seasons or bag limits. Limits cannot be imposed on subsistence hunting and fishing until sport, commercial, and personal uses have been eliminated.*

***Fact:*** **Both the state boards and the federal subsistence board have adopted seasons, bag limits, gear restrictions, and other limitations on subsistence harvests, and those restrictions occur simultaneously with commercial, sport, and personal use harvest.** Both federal and state courts have upheld subsistence restrictions when necessary for conservation or for the orderly management of fish and wildlife harvests. No state administration has ever accepted the argument that subsistence may not be restricted unless other uses have been eliminated.

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***Fiction:*** *The rural resident priority in ANILCA violates the U.S. Constitution.*

***Fact:*** **The Federal District Court of Alaska has dismissed a case that made this argument.** The property clause of the U. S. Constitution and U. S. Supreme Court cases recognize the right of the federal government to manage fish and wildlife on federal land.

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***Fiction:*** *Fish or game taken for subsistence uses will be sold for big dollars.*

***Fact:*** Both ANILCA and the current state subsistence law allow for "customary trade" of subsistence resources. The state law defines it as "limited noncommercial exchange, for minimal amounts of cash." State regulations forbid the sale of subsistence fish or eggs unless specifically allowed. For one type of resource, subsistence herring roe on kelp, regulations allow for limited, noncommercial exchange for cash so long as the roe is not transferred to anyone who is licensed to engage in a fisheries business. Prior to the state's adopting this limitation, there were several federal court decisions

that allowed the sale of a substantial amount of subsistence herring roe on kelp. It is likely that courts now would employ the noncommercial standard that the state adopted.

Presently, the federal subsistence board is considering whether to liberalize its limitations on customary trade for cash. A proposal would allow rural residents to sell an unlimited amount of subsistence resources to other rural residents so long as the sale does not constitute a "significant commercial enterprise." The state believes that this approach may allow abuse. **This is another reason why the state, with its tighter rules on customary trade, should be put back in charge of subsistence management.**